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*Committee on the Environment, Public Health and Food Safety*

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# **DRAFT REPORT**

on the food crisis, fraud in the food chain and the control thereof  
(2013/2091(INI))

Committee on the Environment, Public Health and Food Safety

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## CONTENTS

	Page
MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION .....	3
EXPLANATORY STATEMENT.....	8

## MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

### on the food crisis, fraud in the food chain and the control thereof (2013/2091(INI))

*The European Parliament,*

- having regard to the five-point action plan<sup>1</sup> presented by the Commission in March 2013 following the horsemeat fraud,
  - having regard to the proposal for a regulation on official controls and other official activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health, plant reproductive material [and] plant protection products (COM(2013)0265),
  - having regard to Rule 48 of its Rules of Procedure,
  - having regard to the report of the Committee on the Environment, Public Health and Food Safety and the opinions of the Committee on the Internal Market and Consumer Protection and the Committee on Agriculture and Rural Development (A7-0000/2013),
- A. whereas as a general principle of EU food law it is prohibited to market unsafe food or food with incorrect or misleading labels;
- B. whereas the EU regulatory framework in place for food safety and the food chain has provided the highest level of food safety for EU consumers until now;
- C. whereas, at the same time, recent food fraud cases have damaged consumer trust in the food chain, having a negative impact on the agro-food sector, as individual cases damage the overall image of this key sector of the EU economy; whereas restoring consumer confidence is of paramount importance;
- D. whereas EU food law is very detailed in the area of food safety and includes controls and tests for residues and other contamination of food and feed, but whereas there is no framework in place specifically to target food fraud, other than the general stipulation that consumers may not be misled;
- E. whereas no statistics exist on the incidence of food fraud in the EU, and whereas the Commission has only recently identified food fraud as a new area of action;
- F. whereas recent fraud cases include the marketing of ordinary flour as organic flour, of battery cage eggs as organic eggs, of road salt as food salt and of horsemeat as beef, and the use of methanol-contaminated alcohol in spirits;
- G. whereas the food supply chain is often long and complex, involving many food business operators and other parties;
- H. whereas traders and intermediaries in the food chain are not always registered and

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<sup>1</sup> [http://ec.europa.eu/food/food/horsemeat/plan\\_en.htm](http://ec.europa.eu/food/food/horsemeat/plan_en.htm)

certified as food business operators; whereas the Commission and the Member States are often uncertain as to how many non-registered traders are active;

- I. whereas responsibility for implementing and enforcing EU food law lies with the Member States and whereas enforcement and control are thus mostly limited to the national level, as a result of which an EU-wide cross-border overview is limited to non-existent;
- J. whereas the competent authorities of some Member States have specialised police units to combat food fraud; whereas controls in some Member States are partly delegated to private control bodies; whereas in other Member States controls are carried out wholly by the competent authorities;
- K. whereas the Rapid Alert System for Food and Feed is a useful tool for the rapid exchange of information between Member States and the Commission, for example in the recent horsemeat fraud case;
- L. whereas the Commission's Food and Veterinary Office (FVO) is responsible for checking on compliance with EU food safety and quality requirements, and whereas its audits are typically announced in advance and prepared in conjunction with the competent authorities; whereas the number of audits per year is restricted by the FVO's limited capacity; whereas the FVO has indicated that it is not currently equipped or trained to focus on food fraud;
- M. whereas Europol has observed a rise in the number of food fraud cases and expects this trend to continue, along with the growing involvement of criminal organisations in food fraud;
- N. whereas Europol's information system can be used by Member States to share information about cross-border investigations; whereas Europol can only assist Member States with its expertise, analytical tools and databases at their request; whereas in the horsemeat fraud case, Member States were initially reluctant to work with Europol;

#### **Food fraud: scope and definition**

- 1. Acknowledges that combating food fraud is a relatively new issue on the European agenda, and that in the past it has never been a key priority for legislation and enforcement at EU or national level;
- 2. Underlines the need to gain more insight into the scale, incidence and elements of food fraud cases in the EU; calls on the Commission and the Member States systematically to collect data on fraud cases and to exchange best practices for identifying and combating food fraud;
- 3. Notes that EU law does not currently provide a definition of food fraud and that Member States adopt different approaches; considers a uniform definition to be essential for developing a European approach to combating food fraud; stresses the need rapidly to adopt a harmonised definition at EU level, including elements such as 1) non-compliance with food law and/or misleading the consumer, 2) intent and 3) financial gain;
- 4. Notes that recent food fraud cases have exposed different types of food fraud, such as

replacing key ingredients with cheaper alternatives, wrongly labelling the animal species used in a meat product, incorrectly labelling weight, selling ordinary foods as organic, unfairly using origin or animal welfare quality logos, labelling aquaculture fish as wild-caught, counterfeiting and marketing food past its ‘use-by’ date;

5. Points out that foods which are often subject to fraudulent activities include olive oil, fish, organic products, grains, honey, coffee, tea, spices, wine, certain fruit juices and milk;
6. Is concerned about signals indicating that the number of cases is rising and that food fraud is a growing trend reflecting a structural weakness within the food chain;

### **Contributing factors**

7. Notes that food fraud generally occurs where the potential financial gain is high, and the risk of getting caught low; considers it regrettable that committing food fraud in the EU is lucrative and that the chances of getting caught are relatively low;
8. Points to the complexity and cross-border character of the food chain, in combination with the predominantly national character of controls, sanctions and enforcement, a situation which is believed to increase the risk of food fraud;
9. Also draws attention to other factors often cited as contributing to food fraud, such as the current economic crisis, the austerity measures affecting control agencies and pressure from the retail sector and others to produce food ever more cheaply;
10. Believes that the role of traders and the legislative framework applicable to business-to-business sales should be clarified;

### **Lessons learned and recommendations**

#### *Institutional framework*

11. Welcomes the Commission’s decision to set up a food fraud team and acknowledges the efforts made by Europol in the fight against food fraud;
12. Calls on the Commission to enlarge the focus of FVO audits to include food fraud; considers that the FVO should make use of unannounced inspections;
13. Calls on the budgetary authority to increase the capacity and resources of the FVO and of the Commission’s food fraud team;
14. Suggests holding an annual hearing of the FVO in its ENVI Committee to discuss completed and future audits before the FVO adopts its work programme for the following year;
15. Notes that Member States often struggle to prosecute successfully fraudulent food business operators operating across EU borders, owing to jurisdiction issues; regrets the fact that Member States do not systematically cooperate with Europol in cross-border cases of food fraud, but work bilaterally;
16. Recognises the importance of whistle-blowers in uncovering fraudulent practices in the

food sector; calls on the Member States to create the right conditions to enable whistle-blowers to denounce malicious practices safely and anonymously;

*Legislative framework*

17. Considers that official controls should focus not only on food safety issues, but also on preventing fraud; welcomes the fact that the Commission's proposal for a review of official controls incorporates extra controls in respect of food fraud where competent authorities have reason to suspect fraudulent behaviour by an operator;
18. Observes that some Member States partly delegate controls to private control bodies; stresses that Member State competent authorities should always supervise control systems and verify, certify and scrutinise all private control systems to ensure that they comply with national and international standards;
19. Acknowledges the importance of clear and transparent business-to-business labelling and calls on the Commission to review EU food law in this area where necessary, to reduce the risk of food fraud;
20. Believes that all commercial operators which process, trade or store raw materials, food ingredients or food products in the human food chain, including traders and owners of cold stores, should be registered as food business operators and be subject to controls;
21. Calls on the Commission to accelerate its efforts, together with stakeholders and the Member States, to explore the scope and need for the introduction of electronic certification systems in the food chain, which could reduce the likelihood of fraud based on paper certificates;
22. Recalls that Parliament has previously called on the Commission to undertake impact assessments on origin labelling for fresh meat and products containing meat; urges the Commission rapidly to present its impact assessments and report on this issue; stresses that origin labelling is not a tool for combating food fraud, although it may indirectly lead to a better-informed and more transparent supply chain;

*Corporate responsibility*

23. Considers it valuable for the food sector proactively to develop private-sector anti-fraud programmes such as product integrity checks, and welcomes current initiatives such as the Global Food Safety Initiative;
24. Calls on the Commission and the Member States to consider imposing a legal obligation on food business operators to report to competent authorities about the incidence of food fraud cases;
25. Believes that the retail sector has a special responsibility to guarantee the integrity of food products and to demand from its suppliers a safe and secure supply chain; deplores the pressure on primary producers from retail and other food business operators to produce ever more cheaply;

*Enforcement and controls*

26. Is convinced that a change of attitude is needed within the competent authorities, moving from an administrative and veterinary approach towards a policing approach, based on the experience of the Danish Food Administration's 'flying squad' and of the Arma dei Carabinieri and the Guardia di Finanza in Italy;
27. Stresses that enforcement should be risk-based and include the development of risk profiles and vulnerability assessments for each supply chain and food product, drawing on ongoing academic studies which combine knowledge in the areas of food authenticity and criminology, including research by VU University Amsterdam and the University of Wageningen;
28. Recommends that the FVO and national authorities include in their audits so-called mass balance checks on input and output flows;
29. Calls on the Commission, as a matter of urgency, to put in place an electronic system to enable the rapid exchange of information between Member States and the Commission in food fraud cases;

*Sanctions*

30. Welcomes the Commission proposal to strengthen penalties in order at least to offset the economic advantage sought through the violation, but considers that this is not dissuasive enough; believes that the Member States should set penalties for food fraud which are at least double the amount of the economic advance sought through the fraudulent activity; seems it necessary, as an extra deterrent, to set even higher penalties for fraudulent cases in which public health is deliberately endangered; proposes, furthermore, that in the event of repeated offences the food business operator's registration be withdrawn;
31. Calls on the Commission to collect data from the Member States and to report on the different regimes in the Member States as regards the type and level of sanctions for food fraud offences and the functioning of the sanction regimes;
32. Instructs its President to forward this resolution to the Council and the Commission.

## **EXPLANATORY STATEMENT**

Food safety and the interests of consumers have always been central to the work of the Committee on the Environment, Public Health and Food Safety and the European Parliament at large. In addition to this, the – related but separate - issue of food fraud has been gaining more and more attention in recent years, as a result of cases of fraudulent labelling of foods and other food frauds which impacted the EU food chain. Examples such as road salt used in foods, the marketing of regular eggs as organic and most recently the horse meat scandal, seem to indicate that there might be a continued or structural problem. These cases of food fraud have already had a negative impact on consumers' trust in the food chain, creating a major paradox: food is safer than ever, yet consumers' trust is low. A European citizen is 260 times more likely to die as a result of the flu than due to unsafe food, yet one third of consumers do not trust the information provided by food labels.

For this reason, the Committee on the Environment, Public Health and Food Safety decided to present an own-initiative report looking into the issue of food fraud and in particular: its definition and scope; the factors contributing to its occurrence and possible solutions.

### ***Scope and definition***

Unlike the USA, the EU has no generally acknowledged definition of food fraud, the current EU legislative framework being largely focused on food safety. The only general guideline can be found in Regulation 178/2002 on general principles and requirements of food law, which states that the labelling, advertising, presentation and packaging 'shall not mislead consumers', although in practical terms, the application of this provision varies largely among Member States and the number of controls in this area is extremely limited. As a result, food fraud remains largely undetected, especially when there are no public health or food safety implications. It is therefore difficult to determine the current scope of food fraud in the EU, although most parties contributing to this report indicate it seems to be on the rise.

According to Spink and Moyer<sup>1</sup> 'Food fraud is a collective term used to encompass the deliberate and intentional substitution, addition, tampering, or misrepresentation of food, food ingredients, or food packaging; or false or misleading statements made about a product for economic gain'. Drawing on from this definition the key characteristics of food fraud are: 1) non-compliance with food law and/or misleading the consumer, 2) which is done intentionally and 3) for reasons of financial gain.

Different types of food fraud include adulteration, substitution, tampering and counterfeiting. Products most at risk include fish, olive oil and organic foods.

<b>Top 10 products that are most at risk of food fraud</b>	
1	Olive oil
2	Fish
3	Organic foods
4	Milk
5	Grains
6	Honey and maple syrup
7	Coffee and tea

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<sup>1</sup> Defining the Public Health Threat of Food Fraud / Spink, J, and Moyer, DC In: Journal of Food Science, 2011, Volume 75 (Number 9), p. 57-63.).

8	Spices (such as saffron and chili powder)
9	Wine
10	Certain fruit juices

Table 1. Is based on Spink et. al.<sup>1</sup> and information from retail and branch organisations

### **Contributing factors**

The risk of fraud is highest when the risk of getting caught is small and the potential economic gain is big. The complexity and cross-border character of the food chain, in combination with the predominant focus on food safety and the national character of controls and enforcement are often cited as contributing to a low risk of food fraud actually being detected. The economic gain of fraud is further enhanced by the often ineffective sanction regime: relatively low sanctions and large differences between Member States. Other factors contributing to food fraud include the current economic crisis, the austerity measures affecting control agencies and pressure from retail and others to produce food ever more cheaply. Furthermore, the role of traders and the legislative framework applying to business-to-business sales should also be looked into. Finally, the evidence that criminal organisations are becoming more involved in food fraud is all the more worrisome.

### **Lessons learned**

Although public health and food safety remain of the highest priority, it is suggested the Commission and Member States widen their focus, policies and controls from health and safety only to include food fraud as well.

Firstly it is necessary to define what constitutes food fraud: a clear and harmonised definition is essential as a basis for an effective national and EU approach. Secondly, the FVO's role in detecting food fraud cases should be enhanced, as should its resources. Member States should cooperate more through Europol on cross-border investigations. Thirdly, official controls should also aim to combat food fraud and competent authorities should always certify and scrutinise private control bodies that take over certain tasks of official controls. Rules for intermediary labelling and traders should also be reviewed. Fourthly, the food sector itself plays a key role. Private initiatives to set up anti-fraud programmes should be encouraged, and a legal obligation for food business operators to report to competent authorities of fraudulent behaviour in their sector could contribute to reveal more fraud cases in an early stage and limit the dangers to public health. Fifthly, the attitude of enforcement bodies should move from an administrative and veterinary approach towards a policing approach, which proves successful in a number of Member States, and should be based on risk-profiling. Lastly, sanctions should be increased to at least double the amount of the economic advances sought through the food fraud, and registrations of food business operators should be withdrawn for repeated offenders.

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<sup>1</sup> Development and Application of a Database of Food Ingredient Fraud and Economically Motivated Adulteration from 1980 to 2010 / Moore, J, Spink, J, and Lipkus, M. In: Journal of Food Science, 2012, Volume 77 (Number 4), p. R118-R126.